IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5736 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMABEN NARSINGHBHAI KHALASI SISTER OF DETENU LILABEN W/O

Versus

COMMISSIONER OF POLICE

Appearance:

MR NM KAPADIA for Petitioner

Mr.H.L.Jani, learned A.G.P. for the respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/02/2000

ORAL JUDGEMENT

This Special Civil Application is filed by the detenu through her sister. This petition is directed against the detention order dt.9.7.99 passed by the Police Commissioner, Surat City. The detenu was directed to be lodged at Central Jail, Sabarmati, Ahmedabad by order dt.9.7.99 as was passed by the Police Commissioner,

Surat City. It is given out by the learned counsel for the petitioner that during the pendency of the petition, the petitioner had been transferred to Central Jail, Baroda and at present she is detained at Central Jail, Baroda. The grounds of detention enclosed with the detention order show that petitioner is engaged in the business of manufacturing country made liquor which is prohibited under the law. There are 3 criminal cases against her during the period 1998-99 i.e. 3.5.98, 29.6.98 and 31.3.99 under the Prohibition Act.For these three cases, the quantity of the liquor involved is 192, 200 and 146 Lits. The allegations are also there that she threatened the witnesses on 16.5.99 and 21.6.99 to store the injurious liquor with them. The learned counsel for the petitioner has argued that this is not at all a case of breach of public order and the learned A.G.P. has failed to show as to how the allegations levelled against the petitioner, in the ground of detention, even if taken to be true, constitute a case of breach of public order. The detention order was confirmed by the Board on 9.8.99 and her representation was rejected on 3.8.99.

This Court finds that there is absolutely no case of breach of public order. The allegations on their face value, even if taken to be true, may at the most constitute a case of breach of law and order. It is not sufficient to warrant detention under Gujarat Prevention of Anti Social Activities Act, 1985.

Accordingly the detention order dt.9.7.99 passed by the Police Commissioner, Surat City therefore, cannot be sustained in the eye of law. The same is hereby quashed and set aside. It is directed that the detenu shall be released forthwith if not required to be detained otherwise under any other detention order or in any other criminal case.This Special Civil Application is allowed. Rule is made absolute.

Since it is given out that the detenu is lodged at Central Jail, Baroda, writ be sent to Central Jail, Baroda for her release.

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